

Dimitrij Rupel,
President of the Council of the European Union

31 January 2008
Ref: B740

Dear Mr Rupel,

**Canadian government response to Amnesty International report on Afghanistan -
"Detainees transferred to torture: ISAF complicity?"**

On 13 November 2007 Amnesty International published a report entitled '*Afghanistan - Detainees transferred to torture: ISAF complicity?*' In the report Amnesty International called for international forces serving as part of ISAF to halt such transfers on the grounds that there was a substantial risk of torture and other ill-treatment, particularly since many of them end up in the hands of the National Directorate of Security (NDS). As highlighted in this report, by transferring individuals to a situation where there is a grave risk of torture and other ill-treatment, ISAF states – some of which are EU member states – are potentially in breach of their international legal obligations and may be complicit in torture and other ill-treatment.

We are writing to you today to draw your attention to the disclosure last week by the Government of Canada – one of the ISAF states to which the Amnesty International report refers – that it has ordered the Canadian Forces to cease all transfers of detainees into Afghan custody due to allegations of torture, effective November 5, 2007. The Canadian Government's decision represents an acknowledgement that the May 2007 Monitoring Agreement which it holds with the Government of Afghanistan has failed to prevent torture by Afghan authorities.

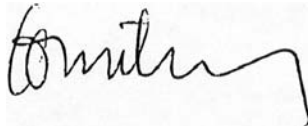
This adds further weight to Amnesty International's concern that bilateral agreements between ISAF states and the Government of Afghanistan do not fulfil the international legal obligations of member states to protect individuals from torture and other ill-treatment. As well as the definite moral imperative to do so, and the freely stated commitment in the EU Guidelines on Torture, EU members states have clear legal obligations to uphold, including those set out in the Convention against Torture. As long as the Afghan justice and security sectors remain weak and unable to uphold Afghanistan's international obligations regarding the treatment of detainees, the obligation to protect must be met by ISAF states that capture detainees.

Amnesty International takes this opportunity to again call on the EU to take a leading role among ISAF states, in conjunction with key partners such as the Afghan government, NATO and the UN, to urgently address human rights concerns relating to the treatment of detainees. Specifically, we call on the Council to:

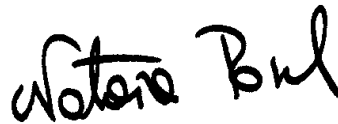
- develop a code of conduct regarding transfers of detainees and monitoring of their treatment for member states operating in Afghanistan; and
- contribute to a comprehensive plan to reform the Afghan detention system in line with UN Security Council resolution 1776.

We would also urge the Slovenian Presidency to use the opportunity of the upcoming EU-Afghanistan Troika meeting on 21 February 2008 to raise concerns about the risk of torture and ill treatment in the NDS, and to identify practical ways in which the EU can support the Government of Afghanistan in tackling this.

Yours sincerely,



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Director,
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Nataša Posel
Director,
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Cc:

Karl Erjavec, Minister for Defence, Slovenia
Javier Solana, High Representative for CFSP
Ambassador Vendrell, European Union Special Representative in Afghanistan
Benita Ferrero-Waldner, Commissioner for External Relations
Riina Kionka, High Representative's Personal Representative for Human Rights